

**TOWN OF CHESTER
PLANNING BOARD MINUTES
October 1, 2014**

Minutes of the October 1, 2014 Planning Board Meeting

Members present: Don Serotta, Chairman, Frank Gilbert, Robert Conklin, Carl D'Antonio, Stephen Denes, Barry Sloan

Also present: David Donovan, Attorney
Alfred Fusco, Engineer

The meeting was called to order at 7:10 p.m.

A motion was made by Frank Gilbert and seconded by Bob Conklin to adopt the minutes from the August 6, 2014 and the August 20, 2014 meeting. The motion passed with a 6-0 vote.

RIDGEVIEW ESTATES SUBDIVISION - A motion was made by Bob Conklin and seconded by Frank Gilbert to grant a 90-day extension of final approval. The motion passed with a 6-0 vote.

HILLS OF CHESTER SUBDIVISION – A motion was made by Steve Denes and seconded by Carl D'Antonio to grant a 90-day extension of final approval. The motion passed with a 6-0 vote.

CHESTERDALE ESTATES SUBDIVISION – A motion was made by Frank Gilbert and seconded by Bob Conklin to grant a 6-month extension of preliminary approval. The motion passed with a 6-0 vote.

JIM THEODOREU MINOR SUBDIVISION – Chairman Serotta recused himself from this application. Barry Sloan substituted as chairman. Dave Donovan requested an attorney-client privilege session. A motion was made by Steve Denes and seconded by Barry Sloan to grant the attorney-client privilege session. The motion passed with 5-0 vote.

When the meeting resumed, Dave Donovan addressed Ben Oster, attorney for the applicant, and Jim Dillin, surveyor for the applicant. He stated that this is a seven member board, one member has recused himself and there is one vacancy leaving five members who can vote. Being a seven member board you need four affirmative votes to carry the application. Do you want this board to vote tonight or do you want the Board to defer until a new member is appointed? Ben Oster responded by saying a new member is not going to be familiar with the application. He said that the Board should be aware that SEQRA was undertaken by the ZBA on the same map and they issued a negative declaration so I don't know what the difficulty is in the Board acting. Postponing until someone may be appointed, that person may decide that they can't act on it because they are not familiar with the application. Dave Donovan said I am affording you and your client that opportunity. Ben Oster said I don't think there is any advantage to the applicant to not vote. I just assume the Board vote.

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Dave Donovan suggested a roll call vote for a negative declaration. Steve Denes voted yes for the negative declaration, Carl D'Antonio voted yes, Frank Gilbert voted no, Bob Conklin voted no, Barry Sloan voted no. Vote was 2-3 against.

Dave Donovan said the Board cannot act on the main application without a negative declaration. The issue to consider is if the Board is going to entertain a positive declaration. Refusal to grant a negative declaration does not end the process. Ben Oster asked what would be the finding to support a positive declaration if the lots conform with the variance to the entire zoning ordinance. Barry Sloan said then you are asking five members of this board to write a dissertation of why they voted this way. Ben Oster said tell me one. Is it water, sewer, traffic, is it population, what is the reason? Tell me what the environmental threshold is that you viewed that you want to adopt a positive declaration. Dave Donovan said we are not prepared to do that. Ben Oster said this is the second time the negative declaration hasn't passed. Dave Donovan said I stated to the Board that the logical conclusion to that is it does not end the process. That if you are not going to have a negative declaration then your other choices are a positive declaration or a condition negative declaration. I don't know if we are prepared to go forward on either of those things this evening. Dave Donovan said I can't see any bases to give the application a positive declaration. If you adopt a negative declaration you have 62 days to issue a determination.

Barry Sloan asked the Board to have a re-vote on granting a negative declaration. A motion was made by Bob Conklin and seconded by Steve Denes to grant a negative declaration. The vote passed with a 5-0 vote.

Dave Donovan reviewed the specific conditions of the resolution. Barry Sloan asked the Board for a motion to adopt the resolution. There was no motion to adopt the resolution. Bob Conklin asked if it was possible to add another condition to the resolution. Dave Donovan said you have the ability as long as the condition has a legitimate objective and whatever condition you propose achieves that legitimate objective. Bob Conklin said if we approve this minor subdivision, I want a condition that there are no further dwellings or structures allowed on this property going forward. Dave Donovan said it would be legitimate to say there will be no further construction except in conformance with the town zoning regulations. If the town zoning permits it, then you could not deny it. Ben Oster said I believe there was a Town of Chester case where the restriction could be no building permit except with planning board approval. The map that is being approved and the fixtures that are shown on the property are the improvements to the property absent future planning board approval. Any changes to the site plan could not be done just by application. You would have to come back to the Planning Board for any future permits. No further development or no further subdivision absent Planning Board approval. You would have to come back to the Planning Board for any amendment to the site plan. Such a condition is acceptable to the applicant. Bob Conklin said he would like to add that to the resolution.

Dave Donovan said under specific conditions the condition would be no additional improvements without planning board approval.

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A motion was made by Bob Conklin and seconded by Frank Gilbert to adopt the resolution as amended. The motion passed with 4-1 vote. Barry Sloan voted no.

DERMA FARM SUBDIVISION – Chairman Serotta stated he received a letter from John Bach, an attorney from Goshen, representing the estate of Elaine and Joseph Durma, who was owners of the Durma Farm, located at Route 94 and Meadow Avenue. Dave Donovan stated there is a tax map designation on the other side of Meadow Avenue that is the same tax designation as across the street. The question is do they need subdivision approval to create this parcel shown on the survey or does Meadow Avenue constitute a natural subdivision, meaning that this lot stands on its own and the other lot stands on its own. The definition of a lot in the subdivision regulations says a parcel separated from other parcels for purpose of sale, lease or separate use by means of among other things separation by a public street. He said that he read that definition as to say that is a separate lot capable of having a separate tax map designation without the necessity of a subdivision application or subdivision approval. The county agrees. If you agree with me and the county, the appropriate way to proceed would be to adopt a resolution authorizing the chairman to write a letter to the Orange County Tax Map saying that this parcel satisfies the requirement of town code to be a standalone parcel. It is capable of having a separate section, lot and block assigned to it.

Chairman Serotta polled the Board for comments and questions. Bob Conklin referred to a comment from Al Fusco's letter about the subdivision. In his letter he said if the Durma subdivision did not dedicate Johnson Road and Meadow Avenue to the Town then the board may want to consider having the applicant dedicate to the Town a fifty foot dedication of Meadow Ave and a twenty five foot dedication of Johnson Road. Al Fusco said when I wrote that letter I was assuming there was going to be board action on the subdivision. Subsequent to me writing that letter Dave Donovan, Don Serotta and I spoke regarding the natural subdivision. If in fact the applicant comes in to subdivide those 14 acres, at that time I would ask that that portion of it be enforced and we take dedication to that road for the benefit of the Town. Bob Conklin asked if it is a dedicated road. Dave Donovan said it is a town road. Bob Conklin said by use only. Is it a dedicated road? Dave Donovan said I don't know the answer to the question. Bob Conklin said it sounds like Al Fusco was not sure either and he left it in question. Al Fusco said what I like to do is get extra road for the highway department so wherever we have a subdivision on an existing road we usually like to re-verify that. In this case, I think we are fine. I'm comfortable with it.

A motion was made by Bob Conklin and seconded by Frank Gilbert to grant the right for the chairman to write a letter to the Orange County Tax Map saying the Town of Chester Planning Board agrees with considering this to obtain a separate section, block and lot number and separate it from the main parcel. The motion passed with a 6-0 vote.

BAZS BELLVALE ROAD – Jim Dillin, surveyor for the applicant, appeared before the Board to present a site plan for an existing structure located at the corner of Bellvale Road and Lake Station Road. He stated the applicant is trying to minimize the parking with a 100-foot buffer on the state wetlands. It is going to require a DEC permit for any work done within the 100-foot buffer. He said one of our biggest problems with this site is it is basically flat all around it. We

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have decided to move our truck unloading to the back of the property and elevate the parking lot approximately 3 feet with a retaining wall, which will allow us to drain all the water. The water will drain through the parking lot, down into a dry swale, under a culvert and down into the wetlands. The septic system is designed for 60 employees. It is a 900 gallon system; we will have a septic tank and a pump. We will do a landscape plan along the front of the building as well as a lighting plan.

Jim Dillin stated that the site plan requirements we are going to be using are wholesale operation of light industry and light industry uses. He said the applicant does not have a renter yet. Dave Donovan said you have to do some kind of generic SEQRA review. Typically, you establish a threshold and if you don't exceed that threshold in terms of traffic, water demand, sewer demand, runoff demand then what ever your end user is would be acceptable. If you are going to exceed it then you would have to come back a for a modified site plan.

Al Fusco submitted the following letter:

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- 233 East Main Street
Middletown, NY 10940
Phone: (845) 344-5863
Fax: (845) 956-5865
- 19 Waywayup Lane
Port Jervis, NY 12771
Phone: (845) 956-5866

September 30, 2014

Don Serotta, Chairman
Town of Chester Planning Board
1786 Kings Highway
Chester, NY, 10918

Project: BAZS
Address: 400 Bellvale Road
SBL: Section 17, Block 1, Lot 88

Dear Chairman Serotta,

On September 30, 2014 I met with the owner and their representatives from KC Engineering regarding their proposed site plan. We discussed the SWPPP and re-development methods for stormwater treatment as well as wetland jurisdictional determination and erosion and sediment control. We also discussed GML239 and the County Highway Permit as well as lighting and landscaping.

The project will need a structural report on the existing facilities. The meeting was productive and we are available to answer any of the Planning Board's questions or comments.

Please advise if you have any questions.

Very truly yours,



Alfred A. Fusco, Jr., P.E.
Fusco Engineering
& Land Surveying, P.C.
AAF/jh

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Chairman Serotta said this building consists of a steel frame that has been sitting for 35 years. There was an issue in the past where they had to get a variance for the parking. There is a rule in the IP zone about parking in the front yard within the front setbacks. Jim Dillin said the use that we have has a 50-foot wide setback but I will check that.

Frank Gilbert asked Jim Dillin to tell the Board what would be done with the loading dock. Jim Dillin said we are moving the loading dock down to a lower part. Frank Gilbert said there is a road back there. Jim Dillin said the last applicant tried to open this road up and put parking and encroach on the 100-foot wide buffer zone. Frank Gilbert asked if the applicant has the room for trucks to get in and out. Jim Dillin said yes. Bob Conklin said make sure the tractor trailers have enough room so they are not turning around on to Bellvale Road.

Barry Sloan asked the purpose of the utility patio on the plan. Brian Leentjes, owner of the project, said it would be used for the air conditioning units. Barry Sloan said you also have an overhead door and do you plan on using that? Jim Dillin said very limited. We are going to have one on the other side of the building too. There is going to be an elevated dock within the building which will be 3 to 4 feet high which the trucks back into. You would be able to drive through these doors and bring in heavy machinery. Barry Sloan asked if the applicant is going to have nine overhead doors there. The applicant said yes. Barry Sloan asked if the gravel driveway will be used for fire trucks only. Bob Conklin asked if the gravel driveway could be improved to have it be a utility road for trucks. If you have nine bays and you have nine trucks pulling in you are going to have a congestion issue. Jim Dillin said the DEC said we have the shale there and we would be allowed to maintain a drive around the building but we didn't talk about having traffic on it and putting blacktop on it. Frank Gilbert said I don't see if you have two trucks backed into a bay, they stick out 70 feet and you have 100 feet how are you going to get a truck to swing around to pull out to its left so he can back into it. Barry Sloan said I don't think he has enough room to make a turn. Jim Dillin said we may have to modify the plan.

Al Fusco stated the stormwater pollution prevention plan would be set up as a redevelopment component since there is an existing structure. Since it is on a county road we have to do a 239 county highway permit, look at the lighting and landscaping and we want a structural report on the existing facility. We do have to look at the loading area and see what can be done to improve that. I think it is a good request to the DEC towards the possibility of upgrading the driveway.

Chairman Serotta asked about the study of Cricket Frogs, Bogged Turtles and Indiana Bates. Jim Dillin said we have reports that were done by the previous owner.

Jim Dillin said he will contact the chairman to schedule the next appearance.

DIGITAL SIGN LAW – Chairman Serotta stated that the Town Board is obligated to refer any new zoning laws to the Planning Board for our review. The Town of Chester is proposing a digital sign and bill board ordinance. Chairman Serotta reviewed comments and concerns he and other board members had. Dave Donovan said the Planning Board's role is to report back to the

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Town Board with their concerns. There are four specific items in the town code 98-39 that should be covered when reporting back to the Town Board. Dave Donovan read the four items.

Chairman Serotta asked for a motion to go into executive session. A motion was made by Carl D'Antonio and seconded by Bob Conklin. The motion passed with a 6-0 vote.

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Roxanne Serotta
Planning Board Secretary